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EX PARTE

June 18, 2002

Marlene Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

*RE: Application by Verizon-New Jersey for Authorization To Provide In-Region, InterLATA Services in the State of New Jersey, WC Docket No. 02-67. **REDACTED***

Dear Ms. Dortch:

MetTel respectfully submits this letter in response to arguments raised and positions taken by Verizon in its Ex Parte Letter dated June 11, 2002.¹ It is intended to highlight Verizon's gross mischaracterizations of serious problems that presently exist. It is also intended to reveal Verizon's superficial and ineffective treatment of these problems. In short, MetTel establishes a basis, premised on discriminatory access to Verizon's OSS and discriminating conduct, by Verizon that compels the denial of Verizon's above-referenced application.

By way of introduction to the issues, we note that Verizon has peppered its correspondence with "business to business" jargon in an effort to minimize very real systemic problems.² Verizon attempts to suggest that there is merely an atmosphere of "misunderstanding," requiring a mutual understanding to achieve eventual resolution of them. This Commission, however, should not be persuaded by Verizon's arguments. The record clearly demonstrates that the MetTel –Verizon relationship is not a healthy or normal "business to business" relationship. The record also

¹ Ex Parte letter to Marlene Dortch, Secretary, from Clint E. Odom in Docket No. 02-67, dated June 11, 2002 ("Vz Ex Parte dated June 11, 2002"). This Ex Parte attempts to respond to a series of Ex Partes filed by MetTel demonstrating significant Verizon OSS shortfalls. See Ex Parte letter to Marlene Dortch, Secretary, from Andoni Economou in Docket No. 02-67, dated June 10, 2002 (focusing on False Notifier Problem: PIC Change Problem) ("MetTel Ex Parte dated June 10, 2002"); Ex Parte letter to Marlene Dortch, Secretary, from Elliot M. Goldberg in Docket No. 02-67, dated June 7, 2002 (focusing on Missing Notifier Trouble Tickets) ("MetTel Ex Parte dated June 7, 2002"); Ex Parte letter to Marlene Dortch, Secretary, from Andoni Economou in Docket No. 02-67, dated June 4, 2002 (filed June 5, 2002) (focusing on False Notifier Problems: Migration Accuracy Analysis and Usage After LOL Analysis) ("MetTel Ex Parte dated June 4, 2002"); Ex Parte letter to William Caton, Acting Secretary, from Elliot M. Goldberg in Docket No. 02-67, dated April 15, 2002 (discussing all problems) ("MetTel Ex Parted dated April 15, 2002").

² See e.g., Id.; Ex Parte Letter to Marlene Dortch, Secretary, from Clint E. Odom in Docket No. 02-67, dated May 17, 2002 ("Vz Ex Parte dated May 17, 2002").

demonstrates that what Verizon attempts to categorize as a misunderstanding is Verizon's self created confusion for the sole purpose of obtaining 271 authorization without meeting its checklist requirements.

Usage Analysis

In MetTel's June 4, 2002 Ex Parte,³ MetTel, using lines that appeared in a Loss of Line ("LOL") report, introduced evidence that unequivocally demonstrated a significant problem with usage continuing on lines after the effective date of loss ("Usage After LOL" analysis). The "Usage after LOL" analysis was prepared in order to test the validity of MetTel's previously submitted "Missing Usage" analysis.⁴ Essentially, rather than examining a line for usage first occurring within 3 days of migration PCN CD, the Usage after LOL analysis examined a line for continued usage after LOL effective date. The analysis reveals that MetTel continued to receive usage on the LOL lines after the LOL completion date. Thus, it proved that "winning" carriers were not receiving usage immediately after the Provisioning Completion Notifier Completion Date ("PCN CD"). Significantly, the Usage After LOL analysis confirms MetTel's "Zero Usage After Migration Problem" that was vigorously disputed by Verizon in reliance on a "1,000 Billing Telephone Number" investigation.⁵ It also highlights Verizon's tendency to mischaracterize the problem as a "resolution" of the problem.

Whether or not Verizon actually investigated 1,000 lines for the mere existence of usage is irrelevant.⁶ MetTel's Migration Accuracy Analysis sought to show that Verizon's systems are not properly functioning and that the PCNs and BCNs issued by Verizon on migration orders were false. MetTel's analysis did this by identifying accounts that did not reflect usage for at least three days after the PCN Completion Date. Obviously, one of the critical elements to MetTel's analysis was that these accounts never showed usage for at least a three-day period from the PCN CD ("Missing Period").⁷ Accordingly, a legitimate "investigation" should focus on the whereabouts of usage during the Missing Period. What a proper investigation should ultimately seek to discover is whether usage existed for the Missing Period and whether the usage was being routed to a different carrier between the PCN CD and the date that usage was first recorded, directed and billed to MetTel.

³ MetTel Ex Parte dated June 4, 2002.

⁴ MetTel Ex Parte dated April 15, 2002 at 3. Ex Parte letter to William Caton, Acting Secretary, from Clint E. Odom in Docket No. 02-67, dated April 15, 2002 ("Vz Ex Parte dated April 15, 2002").

⁵ This investigation was first introduced in the Supplemental Declaration accompanying Verizon's Reply Comments in this proceeding. Supplemental Reply Declaration of Kathleen McLean, Raymond Wierzbicki, and Catherine T. Webster in Docket No. 02-67 ("Vz Suppl. Reply Declaration") at 15 ¶ 27.

⁶ Verizon is wrong when it says that MetTel accuses Verizon of having "faked" its investigation. MetTel does not deny that Verizon may actually have a list of 1,000 BTNs that may have been "investigated" at some point in time. MetTel's position is that the investigation sought to solicit a specific result that misdirected attention away from the actual problems. Moreover, Verizon has never provided MetTel with a list of the alleged 1,000 BTNs that were investigated. Accordingly, MetTel cannot confirm or deny the number of BTNS or the quantity of Verizon's work. As noted above, however, the quantity is irrelevant in light of the nature of the investigation.

⁷ MetTel's analysis captures accounts with missing usage for at least a three day period. The actual number of False Notifiers is even greater at 2 days.

What is extremely telling about Verizon's disingenuous effort to address this problem is revealed by footnote 1 in the Ex Parte. Footnote 1 provides, in its entirety, as follows:

As part of its investigation, Verizon did not determine when usage first occurred on the telephone number in question; merely that usage existed and had been sent to MetTel on the Daily Usage File ("DUF").⁸

In a nutshell, Verizon admits that it never investigated the problem. Significantly, footnote "1" also carefully appears in Verizon's Reply Declaration⁹ and Verizon's Ex Parte of April 15, 2002.¹⁰ Verizon's repeated use of footnote "1" can only mean one of two things. One explanation is that given the long history of these problems and MetTel's complaints, it demonstrates that Verizon knew about the problems but intentionally deflected attention elsewhere. Accordingly, in this context, the footnote exists as a means of avoiding culpability for their inaction. Alternatively, the footnote demonstrates that at the very least, knowledge of such problem should be imputed to Verizon because Verizon simply chose not to investigate when usage first occurred. If, as Verizon alleges, a False Notifier problem does not exist, then Verizon's decision to not examine "when usage first occurred on the telephone number in question," to prove their position is simply not logical. Whether Verizon knew or chose not to know, however, is irrelevant. In either case, Verizon is not now entitled to 271 authorization.

Loss of Line Analysis

Verizon alleges that MetTel's Usage After LOL analysis is inappropriate,¹¹ and characterizes MetTel's Usage after Loss of Line analysis as an "eleventh hour" effort to thwart Verizon's 271 application. Nothing is further from the truth.

Again, MetTel emphasizes that Verizon has ignored this issue for well over a year. The LOL analysis was provided as supporting evidence for the validity of MetTel's Migration Accuracy analysis that Verizon repeatedly dismissed as an unsubstantiated assumption. If Verizon had chosen to deal with the False Notifier problem in a timely and reasonable manner, then the fact that this issue remains unresolved would not now create an appearance of an eleventh hour effort. As noted above, at the very least, Verizon chose to ignore this problem and then misdirect this Commission's attention to the results of an incomplete investigation.

Moreover, despite the seriousness of the False Notifier Problems, and even though Verizon claims that it has not yet "reviewed" MetTel's data, Verizon, true to form, has already concluded that MetTel's analysis is "flawed." Verizon states that a LOL report "is not the equivalent of a completion notifier."¹² By making this argument, however, Verizon is very conveniently contradicting its own previously published position. Before Verizon expends significant resources creating a response that is intended to misdirect the attention of the Commission,

⁸ Vz Ex Parte dated June 11, 2002 at 2 n.1.

⁹ Vz Suppl. Reply Declaration at 15 n.1.

¹⁰ Vz Ex Parte dated April 15, 2002 at 6 n.3.

¹¹ Vz Ex Parte dated June 11, 2002 at 1

¹² Vz *Id.* at 3.

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MetTel pre-emptively submits that if the LOL effective date is not “the completion date of the service order that processed the removal of the end user from the CLEC,” then that is going to be yet another system problem that precludes 271 approval.

If Verizon now chooses to argue that its LOL report is not an accurate reflection of events, it may do so. But that argument must be treated as an admission that Verizon’s OSS is not providing nondiscriminatory access. Because Verizon controls both the content and flow of information, it cannot now claim that generating accurate information is not its responsibility or that investigating and correcting its mistakes, whether attributable to systems or human error, is not its obligation. The ability to reasonably perform its responsibilities and obligations must be established before 271 approval can be granted. To date, Verizon has simply not done so.

Missing Notifier Trouble Tickets

MetTel obviously disagrees with the results provided by Verizon for New York. After the MetTel-Verizon reconciliation exercise, ***** PONs remained unreconciled and Verizon stated that it would investigate those further.¹³ Interestingly, these same ***** PONs remain unreconciled.

Of the *****, MetTel credited Verizon with passing *****, which Verizon has not yet accepted and incorporated into their reconciliation (the remaining are New York PONs). Significantly, Verizon made no mention of the outstanding PONs when it presented its New York results within the context of this 271 proceeding and certainly made no mention of them when it filed its results with the NYS PSC. Moreover, the fact that Verizon is alleging that it has met Metric OR-10-1 in New York is meaningless when viewed in the context of the on-going problems presented to this Commission.

In their June 11, 2002 Ex Parte, Verizon asserts that their performance as reported to New York under the NY Carrier to Carrier demonstrates that they resolved 98% of Missing Notifier Trouble Tickets (for the industry) under the new metric OR-10-1. Verizon reported, to the New York Public Service Commission, their OR-10-1 performance (for MetTel) for March and April as 99.07% (on ***** Observations) and 85.04% (on ***** Observations). MetTel’s March-April New York data shows a significantly lower level of performance at 88.78 % (on ***** Items) and 82.56% (on ***** items).¹⁴

Moreover, in reaching its conclusions, Verizon made no mention of any item discrepancies during the reconciliation. Without having completed the reconciliation process, it self-servingly reported itself to have passed the metric. This instance illustrates that not only is Verizon insincere in its conduct of so-called “business-to-business” reconciliations, it is willing to omit pertinent information when reporting to regulatory commissions.

¹³ MetTel Ex Parte dated June 7, 2002 at 1.

¹⁴ As yet, we do not know why there are differences in the number of observations as the Flat Files do not contain a summary file for this metric and Verizon did not provide data in their filing.

False Notifier Problem - PIC Changes

As demonstrated in MetTel's Ex Parte of June 10, 2002, Verizon has also been less than straightforward with this particular False Notifier Problem.¹⁵ The PIC Change Problem is an old problem that was brought to Verizon's attention well over a year ago. Within this 271 proceeding alone, Verizon has been successful in ignoring, obscuring and mistreating this issue for approximately eight months. The record shows that as Verizon's excuses to avoid the core issues faded, Verizon required additional data. When more data was provided, it was deemed too voluminous by Verizon and less data was requested. The process started on May 10th and a meeting was scheduled for June 11, 2002. In between, it appears that only one person worked on this issue and that person, of course went on vacation for over a week. The agenda, on June 11th, was to review the incomplete result of ***** problematic telephone numbers and the incomplete results of an investigation that was allegedly done months ago. MetTel submits that this course of events, at the very best, constitutes delay and avoidance, and should not be tolerated.

On June 11, 2002, Verizon first shared the results of its "MetTel LD PIC November/December [2001] Investigation" dated May 31, 2002. The "high level read-out" made it perfectly clear that there are significant problems.¹⁷ Verizon claims that they took a random sample of ***** telephone numbers that were provided by MetTel in November and December 2001. The ***** telephone numbers were extracted from a total universe of ***** MetTel PIC Change Orders.¹⁸ After the November/December Investigation, Verizon reported to MetTel as follows:

*****- "Telephone Numbers sampled by Verizon for MetTel original file."
***** (78.5%) – "Telephone Numbers Migrated Correctly"
***** (21.5%) – Telephone Numbers with a Problem
 ***** (8.6%) – "Telephone Numbers Verizon NMC Error"
 ***** (12.9%) – "Telephone Numbers with Insufficient Data"

Significantly, Verizon's own November/December 2001 Investigation demonstrates that 21.5% were misrouted. MetTel has already reviewed Verizon's November/December Investigation results. Of the ***** that Verizon categorized as correct, MetTel never identified ***** as having a problem, thus Verizon should not have spent one minute investigating those telephone numbers.¹⁹ The remaining telephone numbers did in fact have problems even though Verizon marked them as "migrated correctly."

¹⁵ MetTel Ex Parte dated June 10, 2002.

¹⁶ It is unclear whether the person that allegedly went on vacation and allegedly worked on this did so while on vacation although that is what is implied by Verizon's June 11, Ex Parte.

¹⁷ Not surprisingly, in its June 11 Ex Parte Verizon mentioned a "high level read-out" but failed to provide the "high level read-out" that it claimed it prepared to discuss with MetTel on June 11, 2002. Vz Ex Parte dated June 11, 2002 at 4-5.

¹⁸ It is not clear to us how Verizon chose this random sample from the entire universe of 3649.

¹⁹ It is unclear whether Verizon knew that MetTel had not ever declared the ***** telephone numbers as having a problem. It would not have made much of a difference as the ones that MetTel did identify as being a problem, all of them were also identified as problematic by Verizon as well. Notwithstanding whether it was a mistake on Verizon's part to include those in its analysis, Verizon's own alleged random sampling demonstrates the accuracy of MetTel's results.

Most importantly, the other ***** telephone numbers identified by Verizon as having a routing problem were also all identified by MetTel as having a routing problem. Thus, Verizon's own analysis confirms that MetTel was 100% correct in identifying the telephone lines with problems within the sample investigated by Verizon. Of these, Verizon attributed 40% of the errors to human errors and 60% are allegedly still under investigation although it does not appear to be a human error.²¹ Regardless of the source of the error, Verizon's own analysis establishes that this False Notifier Problem is significant and overwhelming.²² Verizon's silence on the issue in their Supplemental Reply Declaration only underscores this point.

The mere existence and magnitude of this False Notifier Problem is sufficient to reject Verizon's 271 application. Verizon's failure to address and correct this problem only reinforces this conclusion. As the entire industry strives to achieve the FCC's zero tolerance for unauthorized carrier changes, a system or process that has an error rate of approximately 21.5% (in processing carrier changes) cannot be tolerated. In light of the seriousness and magnitude of the problem identified by MetTel, Verizon should not now be given a chance to explain why it could not see all along what is now so obvious by its own calculations. That would be inappropriate, especially in light of Verizon's attitude toward investigating and correcting its mistakes.

This attitude is clearly reflected in Verizon's comments on its ***** Telephone number investigation. Significantly, during our meeting, Verizon advised MetTel that ***** out of the ***** telephone numbers provided by MetTel on May 16th were identified as having a problem. Verizon deflects attention away from this finding by asserting that MetTel "scoffs at the idea that investigating "20 problems" could be time consuming. That is partially correct. MetTel scoffs at the idea that Verizon is complaining about investigating ***** telephone numbers, especially in the context of Verizon's 271 application. MetTel also submits that it is extremely bold and brazen of Verizon to imply that MetTel's wasted their time, given that Verizon's own investigation proved that ***** of the ***** telephone numbers under investigation did in fact have a problem.

Moreover, it is offensive that Verizon is complaining about investigating ***** telephone numbers that are only a small sample of a total group of Telephone numbers that Verizon considered too voluminous to investigate. MetTel has probably spent tens of thousands of hours chasing False Notifier Problems. MetTel has also spent hundreds of thousands of dollars creating systems to track Verizon's information so that it can prove that there are problems in

²¹ MetTel does not understand the significance behind Verizon's separation of the problematic telephone numbers between "NCM Errors" (human errors) and "Insufficient Data" errors. It may be that Verizon is under the misimpression that the problems are acceptable if they are human errors. In other words, Verizon may actually believe that there is no systemic problem where a system generates or permits a human error rate of close to 9% of all PIC Change Orders. Moreover, Verizon alleges that it still has not addressed the remaining 60% of the problems (or 13% of the orders) which are still under investigation. Verizon must be fastidiously searching for some additional "fat fingers" to brand the remaining 60% as acceptable; or Verizon is possibly preparing to submit the results of a totally unrelated "investigation." MetTel has no way of verifying Verizon's breakdown and MetTel submits it does not matter.

²² Verizon admitted that the repair of these issues are complex because of the inaccurate information in their systems. Verizon also acknowledged that normal routine processes may not be able to correct these problems and the parties would have to create a special conduit to have these problems solved.

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Verizon's OSS. This was not an academic exercise. MetTel performed these analyses because it was faced with the reality of losing customers, each of whom cost hundreds if not thousands of dollars to acquire and provision. As established by their complaints in investigating ***** telephone numbers, Verizon is very aware of the difficulties in identifying and then actually resolving these problems. Given the potential magnitude of the False Notifier problem as it relates to PIC Changes, 271 approval should not be awarded in the context of Verizon's current OSS.

"Business to Business"

Verizon has resorted to the generous use of the term "business-to-business" in describing its relationship, contacts and exchanges with MetTel. On the off chance that there is any ambiguity in MetTel's correspondence, this Ex Parte should eliminate any doubt. Under no circumstances whatsoever can the MetTel-Verizon relationship, dialog or exchange be categorized as "business-to-business."

In a true business-to-business relationship, issues do not get ignored for years until their existence is denied in a 271 proceeding. In an authentic business-to-business relationship, one party does not "inform" the other that because it is the only customer to identify and complain of a particular problem, that problem does not exist. In a healthy business-to-business relationship, one party does not continue to suggest alternative forums for addressing the complainant's problems, in lieu of *actually* addressing them.

In the guise of "business to business", Verizon is attempting to isolate these problems to MetTel and essentially seeking another opportunity to investigate and explain the problem. MetTel's problems are industry problems. MetTel cannot resolve these problems for Verizon. MetTel can only identify them on everyone's behalf. Verizon's conduct has not been "business to business" towards MetTel before the 271 or during the 271 proceeding. Congress conditioned 271 approval on nondiscriminatory OSS access because it had the foresight to predict MetTel's experience.

Verizon asserts that it is "continuing to address MetTel's issues on a business to business basis."²³ To MetTel that means that Verizon is continuing to follow old patterns of denial, avoidance and delay. MetTel demonstrated these patterns occur within the context of a 271 proceeding. Certainly, post 271 will result in total avoidance. The old patterns, however, must be rejected, and Verizon's 271 denied, if meaningful resolution of these problems is to ever occur.

Conclusion

MetTel has spent close to four years creating operating support systems of its own that improve upon the service and customer care offered to its customers. There is, however, no operating support system or program that can be created that will prevent Verizon from issuing notifiers with false information or compel Verizon to issue accurate Notifiers and resolve trouble tickets in a timely manner.

²³ Verizon Ex Parte dated June 11, 2002 at 1.

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Timelines and accuracy are the sole responsibility of the RBOC and the hallmark of non-discriminating access. After four years, MetTel can now identify these shortcomings with unequivocal evidence of discriminatory access to Verizon's OSS. This is not the anecdotal evidence submitted in prior 271 proceedings.

The permanent resolution of the discriminatory problems is the key to creating real competition in this industry. The competitive community is entitled to non-discriminatory access to Verizon's OSS. As noted by the Department of Justice, "timely and accurate return of billing completion notifiers is competitively significant."²⁴ Accordingly, the Department appropriately conditioned its recommendation to the resolution of MetTel's OSS issues to the Commission's satisfaction. As demonstrated by the record before this Commission, there has been no resolution of the significant OSS issues presented by MetTel. In fact, the opposite is true. MetTel has proven herein that the OSS issues are far more serious and prevalent than acknowledged by Verizon. We strongly urge the Commission to deny Verizon's application until such time as these serious problems are truly resolved.

Respectfully submitted,

Andoni Economou

²⁴ Evaluation of the United States Department of Justice, *In re: Application by Verizon New Jersey Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in New Jersey*, FCC CC Docket No. 02-67 (Apr. 15, 2002) at 9.